

**UNITED STATES DISTRICT COURT
IN AND FOR THE DISTRICT OF WYOMING**

STEPHANIE WADSWORTH, Individually
and as Parent and Legal Guardian of W.W.,
K.W., G.W., and L.W., minor children, and
MATTHEW WADSWORTH,

Plaintiffs,

v.

WALMART, INC. and JETSON
ELECTRIC BIKES, LLC,

Defendants.

Case No.: 2:23-cv-00118-NDF

JURY TRIAL DEMANDED

PLAINTIFFS' REQUEST FOR JUDICIAL NOTICE

The Plaintiffs, Stephanie Wadsworth, individually and as parent and legal guardian of W.W., K.W., G.W., and L.W., minor children, and Matthew Wadsworth, by and through their undersigned legal counsel, respectfully request that this Honorable Court take Judicial Notice of Wyoming Statutes §§ 35-9-801 through 35-9-811, known as the Wyoming Reduced Cigarette Ignition Propensity Act; ASTM International Standard Test Method for Measuring the Ignition Strength of Cigarettes; McKinney's Executive Law § 150-c, Fire Safety Standards for Cigarettes, and; New York State's fire safety performance standard, and in support states as follows:

1. Under Fed. R. Evid. 201, and Wyo. R. Evid. 201, a court may take judicial notice of adjudicative facts that are "... (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned."

2. Judicial notice may be taken at any stage of the proceeding. Fed. R. Evid. 201(d); Wyo. R. Evid. 201(f).

3. Every court of this state shall take judicial notice of the common law and statutes of every state, territory and other jurisdiction of the United States. WY Stat § 1-12-302 (2023).

4. It is within this Court's prerogative to take judicial notice of the official reports of governmental agencies. See *Dellapenta v. Dellapenta*, 838 P.2d 1153, 1159 (Wyo.,1992); see *Washakie Cnty. School Dist. No. One v. Herschler*, 606 P.2d 310 (Wyo., 1980)(Court held that it could take judicial notice of official reports of State Department of Education); *Jensen v. Town of Afton*, 59 Wyo. 500 (Wyo. 1943)(taking judicial notice of an official report of the state examiner to the Governor relative to the bonded indebtedness of counties, municipalities, and school districts.); *Colorado Kenworth, Inc. v. Archie Meek Transp. Co.*, 495 P.2d 1183 (Wyo. 1972)(taking judicial notice of intrastate motor freight tariff, published by the Public Service Commission, providing charge for delay not occasioned by carrier.)

5. Fed. R. Evid. 201 and Wyo. R. Evid. 201 further provide that a court shall take judicial notice if requested by a party and supplied with the necessary information.

6. In 2010, the Wyoming legislature adopted the “Wyoming Reduced Cigarette Ignition Propensity Act” (hereafter “Act”) which implemented cigarette fire safety standards to reduce the likelihood that cigarettes will cause fires and result in deaths, injuries, and property damages. Wyoming Statutes §§ 35-9-801 through 35-9-811.

7. Specifically, the Act provides that any cigarette sold in Wyoming is required to meet American Society of Testing and Materials (ASTM) Standard E2187-04 (2004) "Standard Test Method for Measuring the Ignition Strength of Cigarettes" - a construction that slows down its burn rate and, when not puffed, causes it to self-extinguish. See Wyoming Statute § 35-9-803.

8. The Act is modeled after New York State's fire safety performance standard, which is based upon decades of research by the National Institute of Standards and Technology, Congressional research groups, and private industry.¹

9. Accordingly, as public statutory law and resolutions of the Wyoming Legislature and the Congress of the United States, this Court must take judicial notice of the following:

- a. Wyoming Reduced Cigarette Ignition Propensity Act - Wyoming Statutes §§ 35-9-801 through 35-9-811. A copy of said Wyoming Statutes are attached hereto as **Exhibit "A"**.
- b. American Society of Testing and Materials (ASTM) Standard E2187-04 (2004) "Standard Test Method for Measuring the Ignition Strength of Cigarettes". A copy of American Society of Testing and Materials (ASTM) Standard E2187-04 (2004) is attached hereto as **Exhibit "B"**.
- c. New York State Fire Safety Standards for Cigarettes, New York Executive Law, Section 156-C, as amended, and Part 429 of Title 19 New York Codes, Rules, and Regulations, as amended, and the interpretation and implementation thereof, as they exist on March 1, 2008. Copies attached hereto as **Composite Exhibit "C"**.

10. This Court may take judicial notice of the American Society of Testing and Materials (ASTM) Standard E2187-04 (2004) "Standard Test Method for Measuring the Ignition Strength of Cigarettes", since its test methods and performance standards are not subject to dispute and are capable of accurate and ready determination by resort to resources whose accuracy cannot reasonably be questioned.

11. This Court may also take judicial notice of New York State's Fire Safety Standards for Cigarettes, New York Executive Law, Section 156-C, as amended, and Part 429 of Title 19 New York Codes, Rules, and Regulations, as amended, and the interpretation and implementation

¹ New York Fire Safety Standards for Cigarettes, New York Executive Law, Section 156-C, as amended, and Part 429 of Title 19 New York Codes, Rules, and Regulations, as amended.

thereof, as they exist on March 1, 2008, due to official actions of the legislative, executive, and judicial departments of any state, including New York.

12. By way of this filing, Plaintiffs give timely written notice of their request to enable Defendants to prepare to meet the request and furnishes the Court with the attached exhibits to enable it to take judicial notice of the matter requested. Fed. R. Evid. 201; Wyo. R. Evid. 201.

Date: January 30, 2025

Respectfully Submitted,

/s/ Rudwin Ayala

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